

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

DAKOTA CLAY AHLGRIM,

Petitioner,

v.

Civ. 12-1016RB/GBW

JAMES LOPEZ and ATTORNEY GENERAL
OF THE STATE OF NEW MEXICO,

Respondents

**ORDER ADOPTING MAGISTRATE JUDGES PROPOSED FINDINGS AND
RECOMMENDED DISPOSITION AND DISMISSING CASE**

This matter comes before the Court on Petitioner's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, *Doc. 1*. On February 13, 2009, Petitioner pled guilty to one count of Aggravated Burglary (Deadly Weapon). *Doc. 7, ex A*. At an amenability hearing, the court determined that Petitioner was not amenable to treatment as a juvenile and therefore sentenced him as an adult to nine years of incarceration followed by two years of parole. *Id., ex C*. After filing numerous habeas petitions in the state courts— all of which were denied — Petitioner filed the instant § 2254 petition on September 28, 2012. *Doc. 1*.

The Magistrate Judge filed his Proposed Findings and Recommended Disposition on February 8, 2013. *Doc. 8*. He construed the petition to set forth seven grounds for relief: (1) denial of Petitioner's right to speak on his own behalf at his sentencing hearing; (2) denial of Petitioner's right to a jury determination of whether he

was amenable to sentencing as a juvenile; (3) failure of Judge Sandra Price to recuse herself from presiding over Petitioner's May 2012 habeas petition; (4) lack of physical evidence to support the charge of Aggravated Burglary (Deadly Weapon); (5) failure of the San Juan Juvenile Detention Center to provide mental health services; (6) ineffective assistance of counsel due to the fact that counsel allegedly told Petitioner he could not appeal the plea agreement; and (7) ineffective assistance of counsel due to the conflict of interest created by counsel's friendship with the Deputy District Attorney. *Id.* at 6

The Magistrate Judge recommended that claims (1), (3), (4), and (5) be dismissed for failure to state a claim cognizable in a § 2254 petition. *Id.* at 8-12. He then determined that Petitioner had properly exhausted the remaining claims and proceeded to consider them on the merits. *Id.* at 13-18. The Magistrate Judge recommended that the remaining claims be dismissed as meritless because, in all three cases, the state court's determinations were reasonable. *Id.* at 21-31.

Plaintiff has filed no objections to the PFRD, and, upon review of the record, I concur with the Magistrate Judge's findings and recommendations.

Wherefore, IT IS HEREBY ORDERED that the Magistrate Judge's Proposed Finding and Recommended Disposition, *doc. 8* is ADOPTED. Plaintiff's claim are DISMISSED with prejudice.

A handwritten signature in black ink, appearing to read "Robert Brack", written in a cursive style.

ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE